

REMARKS

In the Office Action¹, the Examiner: rejected claims 14-22 and 25-26 under 35 U.S.C. § 101; rejected claims 1, 14, 27, 40-41, 43, 44-45, 47-49, and 51 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication Number 2003/0012129 to Lee et al. ("Lee"); and rejected claims 2-9, 12-13, 15-22, 25-26, 28-35, 38-39, 42, 46, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 7,000,121 B2 to Jarosz ("Jarosz").

By this Reply, Applicant has amended claim 14. Claims 1-9, 12-22, 25-35, and 38-51 are currently pending, with claims 1, 14, and 27 being independent. Applicant traverses the rejections set forth in the Office Action.

I. The Rejection of Claims 14-22 and 25-26 under 35 U.S.C. §101

The Examiner rejected claims 14-22 and 25-26 under 35 U.S.C. §101 alleging that claim 14 "is a system claim without any structural component and consists solely of language that is implemented with only software." Office Action at 2. Although Applicant disagrees with Examiner's assertions, Applicant has amended Claim 14 to recite "an electronic processor." Thus, claim 14 falls squarely within the ambit of § 101. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 101 rejection of independent claim 14. Moreover, because claims 15-22 and 25-26 depend from independent claim 14, and were rejected under the same rationale as claim 14, Applicant respectfully requests reconsideration and withdrawal of the § 101 rejection of these claims for at least the same reasons as explained above for claim 14.

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

II. The Rejection of Claims 1, 14, 27, 40-41, 43, 44-45, 47-49, and 51 under 35 U.S.C. § 102(e) Based on Lee

The Examiner rejected claims 1, 14, 27, 40-41, 43, 44-45, 47-49, and 51 under 35 U.S.C. § 102(e) as being anticipated by Lee. Applicant respectfully traverse the Examiner's rejection because Lee fails to teach all the recited features of independent claims 1, 14, and 27.

Specifically, Lee fails to teach "transmitting over the network an indication from a first node in the first gateway to a second node in the second gateway that a third node in the first gateway has failed; and reconfiguring a first data, the first data initially configured to be transmitted over the network between the second node and the third node, to be transmitted over the network between a fourth node in the second gateway and the first node after the indication has been received by the second node," as recited in claim 1.

Lee teaches a "failure protection between interconnected adjacent Resilient Packet Rings (RPRS) in a multiple RPR network." Lee at Abstract. Specifically, Lee teaches that "[m]essages are rerouted through the protection path when a failure occurs on the regular path." *Id.* However, Lee does not teach any of the specific features of independent claim 1.

For example, Lee does not teach "a first node in the first gateway," a "second node in a second gateway," a "third node in the first gateway," or "transmitting over the network an indication from a first node in the first gateway to a second node in the second gateway that a third node in the first gateway has failed" as recited in claim 1. Lee simply teaches "failure protection between interconnected adjacent Resilient Packet

Rings (RPRS) in a multiple RPR network.” Lee at Abstract (emphasis added). Lee’s RPR network is not a “gateway” as recited by claim 1. It is merely a network that “provides a ring topology for interconnection among nodes that exchange data with one another.” Lee at ¶ 0002. Moreover, although Lee’s RPR network connects distinct RPR nodes, Lee does not teach whether these RPR nodes are part of a “gateway,” let alone transmitting an indication from a first node in a “first gateway” to a second node in a “second gateway” as recited by claim 1.

Moreover, Lee fails to teach “reconfiguring a first data, the first data initially configured to be transmitted over the network between the second node and the third node, to be transmitted over the network between a fourth node in the second gateway and the first node after the indication has been received by the second node,” as recited in independent claim 1.

Specifically, claim 1 recites that the indication is transmitted “from a first node in the first gateway to a second node in the second gateway” and that the data is reconfigured from being “transmitted over the network between the second node and the third node, to be transmitted over the network between a fourth node in the second gateway and the first node.” However, Lee teaches that “[i]f the failure is on the regular message path, the source node that is generating traffic is notified. Upon receiving such a notification, the source node redirects the traffic using the protection path.” Lee at ¶ 0034 (emphasis added). Unlike claim 1, Lee’s notification is sent to the source node, and traffic is redirected from the same source node to a different path. Moreover, as discussed, Lee does not teach that any of the nodes belong to a “first gateway” and a “second gateway.” Therefore, Lee does not teach “reconfiguring a first data, the first

data initially configured to be transmitted over the network between the second node and the third node, to be transmitted over the network between a fourth node in the second gateway and the first node after the indication has been received by the second node,” as required by claim 1.

Thus, Lee fails to teach all features of independent claim 1. Because claim 1 is patentably distinguishable from Lee, Applicant requests withdrawal of the Examiner’s rejection of claim 1 and timely allowance of the claim. Further, because claims 14 and 27, although of different scope, recite similar features to claim 1, Applicant also requests withdrawal of the rejections of claims 14 and 27 and timely allowance of the claims for the same reasons as discussed above for claim 1. Moreover, because claims 40-41, 43, 44-45, 47, and 51 all depend, either directly or indirectly, from independent claims 1, 14, and 27, Applicant further requests withdrawal of the rejections and timely allowance of these claims for at least the same reasons as discussed above for claims, 1, 14, and 27, as well as because these dependent claims recite additional features not taught nor suggested by the cited references.

III. The Rejection of Claims 2-9, 12-13, 15-22, 25-26, 28-35, 38-39, 42, 46, and 50 under 35 U.S.C. § 103(a) Based on Lee and Jarosz

The Examiner rejected claims 2-9, 12-13, 15-22, 25-26, 28-35, 38-39, 42, 46, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Jarosz. Applicant respectfully submits that the § 103(a) rejection of claims 2-9, 12-13, 15-22, 28-35, 38-39, 42, 46, and 50 was improper because the Examiner failed to properly ascertain the scope and content of the cited references, failed to ascertain the differences between the claimed inventions and the prior art, and failed to resolve the

level of ordinary skill in the pertinent art, as required by *Graham v. John Deere Co.* and M.P.E.P. § 2141. Instead, the Examiner merely stated what the cited references purportedly teach and that it would have been obvious to a person having ordinary skill in the art to modify the method disclosed by Lee to include alleged teachings of Jaros without resolving the level of ordinary skill in the art. Office Action at 5.

Furthermore, a *prima facie* case of obviousness has not been established with respect to claims 2-9, 12-13, 15-22, 28-35, 38-39, 42, 46, and 50 because the Office Action misinterpreted the scope and content of the Lee reference.

As discussed, Lee fails to teach all of the features of independent claims 1, 14, and 27 and consequently, the Office Action failed to recognize the substantial differences between Lee and the independent claims. Accordingly, a *prima facie* case of obviousness has not been established and claims 2-9, 12-13, 15-22, 28-35, 38-39, 42, 46, and 50 are allowable at least because they depend, either directly or indirectly, on independent claims 1, 14, and 27, as well as by reason of reciting additional features not taught nor suggested by the cited references. Applicant requests withdrawal of the rejections of these claims for at least the same reasons as discussed for claims 1, 14, and 27.

IV. Conclusion

In view of the foregoing remarks, Applicant submits that the claims are neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests continued examination of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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